

# Additional remediation at Coakley would cost city ‘millions of dollars’

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PORTSMOUTH -- A bill sponsored by state Rep. Mindi Messmer, state Sen. Martha Fuller Clark and other Seacoast lawmakers could cost the city of Portsmouth “millions of dollars” if it is signed into law, according to City Attorney Robert Sullivan.

House Bill 1766 FN, calls for the N.H. Department of Environmental Services to “order the parties responsible for dumping hazardous waste in the Coakley landfill” to “implement a groundwater extraction and treatment remedy” system at the Superfund cleanup site.

The Coakley Landfill Group is made up of municipalities and groups that used the 27-acre landfill in North Hampton and Greenland, along with companies that transported trash there. The groups and municipalities have been required to pay into a trust created through a 1991 Record of Decision by the Environmental Protection Agency and DES. The city of Portsmouth is required to pay 53.6 percent of remediation costs at the landfill, according to the ROD.

DES has estimated the capital cost of the remediation system would be about \$3 million, according to the bill, and the annual operations and maintenance cost will be about \$200,000.

But Sullivan told a city committee meeting on Monday, and repeated his contention Tuesday that most if not all of the cost of the system would fall on Portsmouth taxpayers. Sullivan contends the bill “seeks to have the Coakley Landfill Group ordered by the state Legislature to perform a remedy at the site different than the one selected by EPA, different than the one which has been performed all these years and different than the one which anybody agreed to pay for.”

“That last item is of special consequence to the city because if you have a number of people who have agreed to pay to do something and the state orders that group to pay to do something else, than the only people who will actually be contractually obligated to pay for the something else are the municipal members who will be subject to what the legislation says,” Sullivan said.

He noted the CLG has already spent about \$27 million on remediation at the landfill, with about \$13 million of that coming from Portsmouth taxpayers.

If the legislation passes, Sullivan believes “it is entirely possible that the full burden of that further remediation, certainly millions of dollars, would have to be borne by the city.”

He further predicted the private parties involved in the consent decrees would object to doing any remediation “beyond what the EPA tells them.” He noted DES officials also signed the consent decrees that led to the plan to remediate the contamination at the site.

“If there was an order from the state of New Hampshire, since the state of New Hampshire signed that same agreement, then the Coakley parties would view that as the state violating its contract with the parties, with us,” Sullivan said.

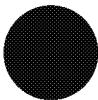
That would likely cause “problems and they would be expensive problems for all of us,” he said. He confirmed the problems he referred to was the likelihood of lawsuits against the additional remediation.

The consent decrees, Sullivan said, “define the obligation of the EPA, the N.H. DES and all participating parties involved with the Coakley Landfill Group.”

“Anyone who doesn’t feel that those consent decrees are being honored by the parties that signed them would have standing to bring a lawsuit seeking their enforcement,” he said. “That is my opinion.”

Messmer could not immediately be reached for comment Tuesday.

Tests on monitoring wells at the landfill have found PFCs and 1,4-dioxane, both suspected carcinogens, at levels above the EPA’s health advisory levels. Many people living near the landfill are worried chemicals leaching from Coakley will contaminate their water wells, but so far PFCs found in private wells have tested below the EPA’s health advisory level. DES officials, however, have confirmed high levels of PFASs found in nearby Berry’s Brook pose a risk to the environment and should be cleaned up.



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